

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID A. STEBBINS,

Plaintiff,

v.

GOOGLE LLC,

Defendant.

Case No. [23-cv-00322-TLT](#)

ORDER TO SHOW CAUSE

Re: ECF. No. 72

Plaintiff conceded that he recorded a meet and confer conversation with Defendants' counsel, uploaded the recorded video to YouTube, and included a link to the publicly accessible recording in an unsealed court filing. Reply to Mot. for Leave to Am. ¶¶ 9-10, ECF No. 69 (“[Defense counsel] even admitted to as much during our 26(f) conference on March 30, 2023. *See* [YouTube link] at timestamp 23:33 – 24:16, defense counsel outright admits that he does not know what the ruling will be on the motion to dismiss.”)

On August 31, 2023, the Court ordered plaintiff to immediately remove from YouTube all recorded conversations with Defendants. *See* ECF Nos. 71-72. Plaintiff was further ordered to delete all copies of conversations between plaintiff and defendant and to and cease from any future recording. *See Id.*

Plaintiff filed a motion to set aside judgment on September 1, 2023 in which he claims to have taken down the video of the rule 26(f) conference call with Defendants counsel. ECF No. 73. Defendants, however, filed a letter brief on September 7, 2023 reflecting that they attempted to meet and confer with Plaintiff regarding his compliance with the Court's order to no avail. *See* ECF No. 74. Specifically, Plaintiff would not respond to Defendants' requests that he “(a) identify all recordings of conversations between yourself and counsel for Google, YouTube, or

Alphabet, including any other conversations you have had with Wilson Sonsini attorneys; and (b) affirm in writing that you have complied with the order by deleting all copies of those recordings.”

Id. Plaintiff did not respond and so Defense counsel followed up on September 5, 2023. *Id.*

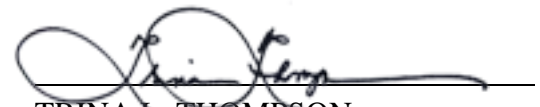
Plaintiff did not respond substantively to Defendants’ inquiries. *Id.*

Plaintiff is hereby **ORDERED** to respond to Defendants’ inquiry to “identify all recordings of conversations between [plaintiff] and counsel for Google, YouTube, or Alphabet, including any other conversations you have had with Wilson Sonsini attorneys.” Plaintiff is **FURTHER ORDERED** to file an affidavit, under penalty of perjury, that he has complied with the Court’s order by deleting all copies of those recordings and attesting that he will not record conversations with Defendants’ counsel concerning this case going forward.

Plaintiff is further **ORDERED TO SHOW CAUSE** as to why sanctions should not be imposed for bad faith conduct. *Estrada v. Speno & Cohen*, 244 F.3d 1050 (9th Cir. 2001) (federal courts have the inherent authority to impose sanctions for bad faith conduct during litigation, or for willfully ignoring a court order). Sanctions may include monetary penalties and/or dismissal of this action with prejudice. The Court invites Defendants to immediately submit their billing records for time spent attempting to enforce the Court’s August 31, 2023 Order. Plaintiff’s response to Defendants meet and confer letter, the affidavit, and response to the Order to Show Cause must be filed and served by **September 20, 2023**. Failure to respond timely will result in monetary sanctions and dismissal of this case with prejudice. The hearing on the Order to Show Cause and the motion to set aside judgement (ECF No. 73) will take place on **November 14, 2023 at 2:00 p.m. PST**.

IT IS SO ORDERED.

Dated: September 13, 2023



TRINA L. THOMPSON
United States District Judge